United Nations A/C.3/73/L.39

General Assembly

Distr.: Limited
31 October 2018

Original: English

Seventy-third session

Third Committee

Agenda item 74 (b)

Promotion and protection of human rights: human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms

Australia, Austria, Belgium, Brazil, Chile, Costa Rica, Cyprus, Denmark, Estonia, Finland, France, Georgia, Germany, Hungary, Iceland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Netherlands, Norway, Paraguay, Poland, Portugal, Romania, Slovenia, Spain, Sweden, Switzerland and Ukraine: draft resolution

Extrajudicial, summary or arbitrary executions

The General Assembly,

Recalling the Universal Declaration of Human Rights,[1] which guarantees the right to life, liberty and security of person, the relevant provisions of the International Covenant on Civil and Political Rights[2] and other relevant human rights conventions,

Reaffirming the mandate of the Special Rapporteur of the Human Rights Council on extrajudicial, summary or arbitrary executions, as set out in Council resolution 35/15 of 22 June 2017,[3]

Welcoming the universal ratification of the Geneva Conventions of 12 August 1949,[4] which, alongside international human rights law, provide important legal frameworks of accountability in relation to extrajudicial, summary or arbitrary executions during armed conflict,

Recalling all its resolutions on the subject of extrajudicial, summary or arbitrary executions as well as the resolutions of the Commission on Human Rights and the Human Rights Council on the subject, and emphasizing the importance of their full and effective implementation,

[1] Resolution 217 A (III).

[2] See resolution 2200 A (XXI), annex.

[3] See *Official Records of the General Assembly, Seventy-second Session, Supplement No. 53* (A/72/53), chap. V, sect. A.

[4] United Nations, *Treaty Series*, vol. 75, Nos. 970–973.

18-18293 (E) 021118

Please recycle

Recognizing the positive role that regional human rights systems can play in the global protection against arbitrary deprivation of life,

Acknowledging the importance of the 2030 Agenda for Sustainable Development[5] and its implementation for the promotion and protection of the enjoyment by all persons of human rights, gender equality, access to justice for all and effective, accountable and inclusive institutions at all levels,

Noting with deep concern that impunity continues to be a major cause of the perpetuation of violations of human rights, including extrajudicial, summary or arbitrary executions, especially with regard to the gender-related killing of women and girls, also known as femicide,

Noting that enforced disappearances can end up in extrajudicial, summary or arbitrary executions, recalling the importance in this regard of the International Convention for the Protection of All Persons from Enforced Disappearance,[6] and calling upon all States which have not yet done so to consider signing and ratifying or acceding to the Convention,

Acknowledging that international human rights law and international humanitarian law are complementary and mutually reinforcing,

Noting with deep concern the growing number of civilians and persons hors de combat killed in situations of armed conflict and internal strife, and that women and girls are disproportionately affected by conflict, as recognized in Security Council resolution 1325 (2000) of 31 October 2000 on women and peace and security and subsequent resolutions on the matter,

Noting with deep concern also the continuing instances of the arbitrary deprivation of life, resulting from, inter alia, the imposition and implementation of capital punishment when carried out in a manner that violates international law,

Recalling the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules)[7] and the adoption of the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules),[8]

Deeply concerned about acts that can amount to extrajudicial, summary or arbitrary executions committed against persons exercising their rights to peaceful assembly and freedom of expression in all regions of the world,

Deeply concerned also about killings committed by non-State actors, including terrorist groups and criminal organizations, which may amount to abuses of international human rights law and violations of international humanitarian law, and in this context noting the need to strengthen accountability,

Acknowledging that extrajudicial, summary or arbitrary executions may under certain circumstances amount to genocide, crimes against humanity or war crimes, as defined in international law, including in the Rome Statute of the International Criminal Court,[9] and recalling in this regard that each individual State has the responsibility to protect its populations from such crimes, as set out by the General Assembly in its resolutions 60/1 of 16 September 2005 and 63/308 of 14 September 2009,

---

[5] Resolution 70/1.

[6] United Nations, *Treaty Series*, vol. 2716, No. 48088.

[7] Resolution 65/229, annex.

[8] Resolution 70/175, annex.

[9] United Nations, *Treaty Series*, vol. 2187, No. 38544.

Convinced of the need for effective action to prevent, combat and eliminate the abhorrent practice of extrajudicial, summary or arbitrary executions, which represent flagrant violations of international human rights law, particularly the right to life, as well as of international humanitarian law,

1. *Reiterates its strong condemnation* of all the extrajudicial, summary or arbitrary executions that continue to occur throughout the world;

2. *Demands* that all States ensure that the practice of extrajudicial, summary or arbitrary executions is brought to an end and that they take effective action to prevent, combat and eliminate the phenomenon in all its forms and manifestations;

3. *Reiterates* that all States must conduct prompt, exhaustive and impartial investigations into all suspected cases of extrajudicial, summary or arbitrary executions, identify and bring to justice those responsible, while ensuring the right of every person to a fair hearing by a competent, independent and impartial tribunal established by law, grant adequate compensation within a reasonable time to the victims or their families and adopt all measures, including legal and judicial measures, also bearing in mind gender equality in access to justice, necessary to put an end to impunity, particularly with regard to the gender-related killing of women and girls, also known as femicide, and extrajudicial, summary or arbitrary executions of refugees and migrants and humanitarian workers, and prevent the further occurrence of such executions, as recommended in the Principles on the Effective Prevention and Investigation of Extralegal, Arbitrary and Summary Executions,[10] fully consistent with their obligations under international law;

4. *Calls upon* Governments, and invites intergovernmental and non-governmental organizations, to pay greater attention to the work of national-level commissions of inquiry into extrajudicial, summary or arbitrary executions, with a view to ensuring the effective contribution of these commissions to accountability and to combating impunity;

5. *Calls upon* all States, in order to prevent extrajudicial, summary or arbitrary executions, to comply with their obligations under the relevant provisions of international human rights instruments, and also calls upon States which retain the death penalty to pay particular regard to the provisions contained in articles 6, 14 and 15 of the International Covenant on Civil and Political Rights[2] and articles 37 and 40 of the Convention on the Rights of the Child,[11] bearing in mind the safeguards and guarantees set out in Economic and Social Council resolutions 1984/50 of 25 May 1984 and 1989/64 of 24 May 1989 and taking into account the recommendations of the Special Rapporteur of the Human Rights Council on extrajudicial, summary or arbitrary executions in his reports to the Council and the General Assembly, including the report submitted to the Assembly at its sixty-seventh session,[12] regarding the need to respect all safeguards and restrictions, including limitation to the most serious crimes, stringent respect of due process and fair trial safeguards and the right to seek pardon or commutation of sentence;

6. *Emphasizes* that States are required to adopt such laws or other measures as may be necessary to give effect to the right to life and that everyone has the right to recognition everywhere as a person before the law;

7. *Urges* all States:

(a) To take all measures required by international human rights law and international humanitarian law to prevent loss of life, in particular that of children,

[10] Economic and Social Council resolution 1989/65, annex.

[11] United Nations, *Treaty Series*, vol. 1577, No. 27531.

[12] A/67/275.

during detention, arrest, public demonstrations, internal and communal violence, civil unrest, public emergencies or armed conflicts and to ensure that the police, law enforcement agents, armed forces and other agents acting on behalf of or with the consent or acquiescence of the State, including private security providers, act with restraint and in conformity with international human rights law and international humanitarian law, including the principles of proportionality and necessity, and in this regard to ensure that police and law enforcement officials are guided by the Code of Conduct for Law Enforcement Officials[13] and the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials;[14]

(b) To ensure the effective protection of the right to life of all persons, to conduct, when required by obligations under international law, prompt, exhaustive and impartial investigations into all killings, including those targeted at specific groups of persons, such as racially motivated violence leading to the death of the victim, killings of persons belonging to national or ethnic, religious and linguistic minorities or because of their sexual orientation or gender identity, killings of persons affected by terrorism or hostage-taking or living under foreign occupation, killings of refugees, internally displaced persons, migrants, street children or members of indigenous communities, killings of persons for reasons related to their activities as human rights defenders, lawyers, journalists or demonstrators, killings committed in the name of passion or in the name of honour and killings committed for discriminatory reasons on any basis, to bring those responsible to justice before a competent, independent and impartial judiciary at the national or, where appropriate, international level and to ensure that such killings, including those committed by security forces, police and law enforcement agents, paramilitary groups or private forces, are neither condoned nor sanctioned by State officials or personnel;

8. *Affirms* the obligation of States, in order to prevent extrajudicial, summary or arbitrary executions, to protect the lives of all persons deprived of their liberty in all circumstances and to investigate and respond to deaths in custody;

9. *Encourages* States, taking into account the relevant recommendations of the United Nations and of regional human rights systems, to review, where necessary, their domestic laws and practices with regard to the use of force in law enforcement in order to ensure that these laws and practices are in conformity with their international obligations and commitments;

10. *Also encourages* States to make appropriate protective equipment and less lethal weapons available to their officials exercising law enforcement duties, in order to decrease their need to use weapons of any kind, while pursuing efforts to regulate and establish protocols for the training and use of less lethal weapons, bearing in mind that even less lethal weapons can result in risk to life;

11. *Further encourages* States to accelerate the work on fulfilling the 2030 Agenda for Sustainable Development,[5] bearing in mind the importance of the full enjoyment of human rights and access to justice for all and effective, accountable and inclusive institutions at all levels, as well as the systematic mainstreaming of a gender perspective;

12. *Urges* all States to ensure that all persons deprived of their liberty are treated humanely and with full respect for international law and that their treatment, including judicial guarantees and conditions, conforms to, as appropriate, the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela

[13] Resolution 34/169, annex.

[14] See *Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, 27 August–7 September 1990: report prepared by the Secretariat* (United Nations publication, Sales No. E.91.IV.2), chap. I, sect. B.

Rules),[8] as well as the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules)[7] and, where applicable, the Geneva Conventions of 12 August 1949[4] and the Additional Protocols thereto of 8 June 1977,[15] as well as other pertinent international instruments;

13. *Welcomes* the International Criminal Court as an important contribution to ending impunity concerning extrajudicial, summary or arbitrary executions, and, noting the growing awareness of the Court worldwide, as highlighted during the twentieth anniversary of the adoption of the Rome Statute of the Court,[9] calls upon those States that are under an obligation to cooperate with the Court to provide such cooperation and assistance in the future, in particular with regard to arrest and surrender, the provision of evidence, the protection and relocation of victims and witnesses and the enforcement of sentences, also welcomes the fact that 123 States have ratified or acceded to and 138 States have signed the Rome Statute, and calls upon all those States that have not ratified or acceded to the Rome Statute and the Agreement on the Privileges and Immunities of the International Criminal Court[16] to give serious consideration to doing so;

14. *Acknowledges* the importance of ensuring the protection of witnesses for the prosecution of those suspected of extrajudicial, summary or arbitrary executions, urges States to intensify efforts to establish and implement effective witness protection programmes or other measures, and in this regard encourages the Office of the United Nations High Commissioner for Human Rights to develop practical tools, including gender-sensitive tools, designed to encourage and facilitate greater attention to the protection of witnesses;

15. *Encourages* Governments and intergovernmental and non-governmental organizations to organize training programmes and to support projects with a view to training or educating military forces, law enforcement officers and government officials, as well as private personnel acting on behalf of the State, in international humanitarian and human rights law connected with their work, to include a gender and child rights perspective in such training and to require, where appropriate, that all private security providers have vetting and training procedures in place, including mandatory appropriate weapons training, that include human rights norms and principles, and appeals to the international community and requests the Office of the High Commissioner to support endeavours to that end;

16. *Takes note with appreciation* of the reports of the Special Rapporteur to the General Assembly[17] and the Human Rights Council, and invites States to take due consideration of the recommendations contained therein;

17. *Commends* the important role that the Special Rapporteur plays towards the elimination of extrajudicial, summary or arbitrary executions, and encourages the Special Rapporteur to continue, within his or her mandate, to collect information, including data disaggregated by sex, from all concerned, to respond effectively to reliable information that comes before him or her, to follow up on communications and country visits and to seek the views and comments of Governments and to reflect them, as appropriate, in his or her reports;

18. *Acknowledges* the important role of the Special Rapporteur in identifying cases where extrajudicial, summary or arbitrary executions could amount to genocide and crimes against humanity or war crimes, and urges the Special Rapporteur to collaborate with the United Nations High Commissioner for Human Rights and, as appropriate, the Special Adviser to the Secretary-General on the Prevention of

[15] United Nations, *Treaty Series*, vol. 1125, Nos. 17512 and 17513.
[16] Ibid., vol. 2271, No. 40446.
[17] See A/72/335 and A/73/314.

Genocide in addressing situations of extrajudicial, summary or arbitrary executions that are of particularly serious concern or in which early action might prevent further deterioration;

19. *Welcomes* the cooperation established between the Special Rapporteur and other United Nations mechanisms and procedures in the field of human rights, and encourages the Special Rapporteur to continue his or her efforts in that regard;

20. *Urges* all States, in particular those that have not done so, to cooperate with the Special Rapporteur so that his or her mandate can be carried out effectively, including by favourably and rapidly responding to requests for visits, mindful that country visits are one of the essential tools for the fulfilment of his or her mandate, and by responding in a timely manner to communications and other requests transmitted to them by the Special Rapporteur;

21. *Expresses its appreciation* to those States that have received the Special Rapporteur, asks them to examine his recommendations carefully, invites them to inform the Special Rapporteur of the actions taken on those recommendations, and requests other States to cooperate in a similar way;

22. *Once again requests* the Secretary-General to continue to use his best endeavours in cases where the minimum standards of legal safeguards provided for in articles 6, 9, 14 and 15 of the International Covenant on Civil and Political Rights appear not to have been respected;

23. *Requests* the Secretary-General to provide the Special Rapporteur with adequate human, financial and material resources to enable him or her to carry out his or her mandate effectively, including through country visits;

24. *Also requests* the Secretary-General to continue, in close collaboration with the High Commissioner and in conformity with the mandate of the High Commissioner, established by the General Assembly in its resolution 48/141 of 20 December 1993, to ensure that personnel specialized in international humanitarian and human rights law, including in provisions related to gender equality, form part of United Nations missions, where appropriate, in order to deal with serious violations of human rights, such as extrajudicial, summary or arbitrary executions;

25. *Welcomes* the proposed introduction of casualty-recording mechanisms in the human rights components of United Nations peace operations and other human rights missions, as appropriate, with the support of all interested United Nations entities;

26. *Requests* the Special Rapporteur to submit to the General Assembly, at its seventy-fourth and seventy-fifth sessions, a report on the situation worldwide with regard to extrajudicial, summary or arbitrary executions and his or her recommendations for more effective action to combat this phenomenon;

27. *Decides* to continue its consideration of the question at its seventy-fifth session.